



Connecticut Campaign for **PAID FAMILY LEAVE**

Committee on Labor and Public Employees

Proposed House Bill No. 6932: *An Act Concerning Paid Family Medical Leave*

Submitted by: Catherine Bailey, Chair, CT Campaign for Paid Family Leave

March 5, 2015

My name is Catherine Bailey and I serve as the Legal and Public Policy Director of the Connecticut Women's Education and Legal Fund (CWEALF). CWEALF is a statewide non-profit organization dedicated to empowering women, girls and their families to achieve equal opportunities in their personal and professional lives. For decades we have advocated for strategies to increase access for women to workplace policies that are fair and support their economic stability.

For more than a year, CWEALF has led the Connecticut Campaign for Paid Family Leave, for which I serve as Chair. The Campaign is a coalition that has been dedicated to implementing a system of paid family and medical leave in Connecticut for almost three years. Our coalition is made up of more than 50 organizations representing a variety of interests: elder care, women's health, long-term illnesses, children's groups, special needs, pediatrics, labor unions, religious groups, and low-income advocacy organizations.

Please accept this testimony on Proposed House Bill No. 6932: *An Act Concerning Paid Family Medical Leave*. The Campaign applauds the committee for developing a comprehensive program to address the current needs of employees in this economy.

Paid Family and Medical Leave is Needed in Connecticut

Currently, both the federal and state Family and Medical Leave Acts provide only unpaid leave to workers who have a serious medical condition, need to care for a family member with a serious medical condition, for the birth or adoption of a child, to serve as an organ or bone marrow donor, or to care for an injured member of the military. While these laws were a great first step in the early 1990s, they need to be brought in line with the 21st century and the current challenges of hard-working employees.

First, these laws only apply to large companies, and therefore do not cover approximately 40% of the workforce.¹ This leaves a large portion of the population that can be fired if they become seriously ill. With this bill, the committee has recognized that employers of all sizes have workers who face serious medical conditions and urgent caregiving needs.

However, even people who *are* covered by the law often do not use the unpaid time from work because they simply cannot afford it. Workers who take unpaid leave risk failing to pay their

¹ "The Family and Medical Leave Act at 22: 200 Million Reasons to Celebrate and Move Forward," National Partnership for Women and Families, February 2015.

bills and their medical expenses, a higher incidence of bankruptcy and reliance on public assistance, and economic devastation for their families. In fact, new mothers with paid leave are 39% less likely to use public assistance, 40% less likely to need food stamps, and 54% more likely to experience a wage increase in the following year.²

Aside from the benefits to workers and families, paid family and medical leave has significant benefits for businesses and the economy. It fosters greater attachment to the labor force, increases morale in companies, boosts productivity, lowers the time and expense of turnover costs, and allows small businesses to offer better benefits packages and compete for top-notch workers.³

The Campaign for Paid Family Leave's Program Recommendations:

After reviewing programs in other states and the need for this program in CT for several years, the Campaign announced its recommendations in September 2014. Many of these elements are included in House Bill No. 6932:

- *Self-funded System:* this program is completely funded by employee contributions. Although there are strong arguments to support the idea that employers should contribute, the Campaign was sensitive to the needs of small businesses in forming these recommendations.
- *Accessibility:* for a paid leave system to be portable and accessible, it's important that all employees, with an exception of self-employed individuals, be part of the system. This means that all employees will contribute, and all will be eligible if they meet certain criteria.
- *Eligibility:* to be eligible for paid family and medical leave, an employee must have earned \$9300 in a 12-month period in the previous two years. Earnings may be aggregated among multiple employers. Unemployed individuals are eligible, so long as they earned the required amount in the time period.
- *Family Members:* Currently, a parent, spouse, and child under 18 are included in the definition of family member. Adding sibling, grandparent, and grandchild to the list will accommodate the realistic needs of multi-generational households and allow employees to tend to their loved ones, regardless of age. In addition, children of all ages should be included. Right now, only minor children and those above 18 who are incapable of self-care because of a mental or physical disability are covered.
- *Reimbursement:* In order for paid leave to be useable by most employees, a high rate of reimbursement is required to provide a liveable wage. This is especially important for low-wage workers. Therefore, employees would earn 100% of their wages, up to a cap of \$1,000/week.

² Houser, Linda and Vartanian, Thomas P., "Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses, and the Public," Rutgers Center for Women and Work, January 2012.

³ "Paid Family and Medical Leave: Good for Business," National Partnership for Women and Families, July 2014.

- *Length of Leave:* The Campaign recommends up to 12 weeks of leave per year, which mirrors the federal statute. Employees should also have intermittent leave available, as under the current unpaid statute, for those with a health condition or caring for a loved one who can get back to work gradually.
- *Job Protection:* As all employees will be contributing their wages to the system, they should also be returned to their jobs following the leave. This keeps employees attached to the labor force and lowers turnover costs for employers. Currently, all employees covered by FMLA have job protection, and we would extend this to all employees contributing their wages to the system.

Recommended Amendments to the Bill:

While this bill contains most of the significant elements of the Campaign's recommended program, there are several amendments that should be added.

Section 1: The definition of "covered individual" should include the fact that earnings may be aggregated among multiple employers. Also, the definition of "son or daughter" should be changed to reflect the fact that children of any age are covered. Finally, "spouse" should be updated to reflect Connecticut's marriage equality statute.

Section 2: The establishment of the Family and Medical Leave Compensation Program mistakenly indicates that the Administrator will begin receiving applications to the program before it begins accepting contributions to the Trust Fund. The Administrator should begin accepting contributions on or before February 1, 2016, and after a year of building up the fund, begin accepting applications for compensation on February 1, 2017. Please see Section 8 description for further detail about the intended coverage of the program.

Section 2(d): In the acceptable reasons listed for taking family and medical leave compensation, this section should explicitly list leave to care for an injured service member (31-51// (a)(i)), and leave for family violence reasons (31-51ss).

Section 6(2): This section indicates that a covered individual must enroll in a program, but this section should only apply to those who are self-employed, as this is the only group of people that must enroll in the program. All other employees should be considered covered. See Section 8 for further explanation.

Section 6(5): This language should be clarified to indicate that the Administrator *must* collect deductions from all employees, as this is the only way to ensure the program works and the fund remains solvent.

Section 8: Subsections (a) and (b) are harmful and contrary to the intent of the program. The language creates some sort of affirmative, voluntary enrollment process for employees before they can even apply for compensation. If this provision is left in place, it will create a significant administrative burden on the Administrator of the program and for businesses to figure out who

is included and who is not. Creating an "opt-in" system is harmful to low-wage workers and those with minimal education and fewer resources, as these groups will likely be unaware of the system. We urge you to remove this language and create a system that applies to all employees who have met the eligibility criteria.

Sections 15(a) and 16(14): Like the definitions in Section 1, these should also be amended to ensure the definitions of "child" and "son or daughter" include children of all ages.

Section 16(1): The definition of "eligible employee" should be changed. Because this system is not intended to be tied to the employer, but rather an employee-funded system that is portable and specific to the employee, the additional requirements of working for 12 months and 1000 hours of service for a particular employer should be removed. Instead, the "eligible employee" definition should match the definition of "covered individual" in Section 1, which has an eligibility requirement of earning \$9300 in a 12-month period in the previous two years. It would cause too much confusion if the definitions of "covered individual" and "eligible employee" are different.

Section 17(e)(2)(A): This section should be brought into harmony with the newly-created Section 11, which indicates that an employer cannot force an employee to use accrued time before family and medical leave compensation. It is only fair that an employee who has been contributing to the program for a number of years be able to use it when he or she needs it. Section 17 could be read to contradict this provision and therefore should be changed.

Section 17(g): Language regarding a "husband and wife" employed at the same company is outdated and should be changed to "spouse."

Section 19: Between Sections 18 and 19 of the bill, a new section should be included to include the current provisions of Section 31-51nn, which is a critical piece of the current CT FMLA statute. This section provides job protection for employees who take unpaid leave, and should be equally applied to employees who take paid leave. It will ensure that employees are returned to the same or an equivalent position, with equivalent benefits, pay, and conditions of employment. As discussed earlier in this testimony, this job protection should be applied to all employees who are covered individuals.

Section 24: Section 31-51rr currently grants to state employees who are parties to a same-sex marriage the same benefits under the federal Family and Medical Leave Act as are granted to employees in opposite-sex marriages. It appears that this section is no longer needed, as CT FMLA will be brought into line with the federal FMLA, and in light of the 2013 Supreme Court decision *United States v. Windsor*. However, we would urge you to consult with the CT Department of Labor and other legal experts on same-sex marriage rights to confirm that the repeal of this section is appropriate. We would be happy to facilitate conversation with experts such as GLAD or Lambda Legal to further explore this intersection.

In closing, the Campaign for Paid Family Leave applauds the Committee's willingness to take on an issue that will impact so many people's lives and futures in the state. By bringing family and

medical leave laws into the 21st century, our hard-working residents will be able to maintain their economic stability during major life events.